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Chapter 3.

General Provisions Affecting Officers of the City

Sec. 3.1. Officers to be elected.

The elective officers of the city shall be five (5) Councilmen, one (1) to be elected by and from each ward of the city; also one (1) Municipal Judge, and one (1) Constable, each of whom shall be elected from the city at large. In the event that the state law is changed so as to permit the appointment of Constables, thereafter the Constable herein required to be elected shall be appointed in the manner provided by Section 9.15 of this charter for the appointment of additional Constables, and the requirement that such officer be elected shall not apply.

Editor's note--The office of constable was abolished with the adoption of Ord. No. 995, enacted Dec. 22, 1980. The provisions of § 1 of said ordinance are codified as Ch. 2, Art. XV, § 2-280, of this Code. The ordinance did not provide for amendment of this Charter.

Sec. 3.2. The administrative officers.

The administrative officers of the city shall be the City Manager, City Attorney, Clerk, Treasurer and Assessor. The Council may, by resolution upon the recommendation of the City Manager, create such additional administrative offices, or may combine any administrative offices in any manner not inconsistent with state law, and prescribe the duties thereof as it may deem necessary for the proper operation of the city government. No creation of any administrative office, or combination of any administrative office or offices, one with another, shall abolish the office of City Manager nor diminish any of the duties or responsibilities of that office as set forth in this charter.

State law reference(s)--Charter to provide for clerk, treasurer, and assessor, M.S.A. § 5.2073.

Sec. 3.3. Terms of elective officers.

The terms of office of Councilmen and of the Constable shall be for two (2) years and shall commence on and date from the Monday following the regular city election at which they are elected. The term of office of the Municipal Judge shall be for four (4) years and shall commence on and date from the 1st of January next following his election.

Editor's note--The office of constable was abolished with the adoption of Ord. No. 995, enacted Dec. 22, 1980. The provisions of § 1 of said ordinance are codified as Ch. 2, Art. XV, § 2-280, of this Code. The ordinance did not provide for amendment of this Charter.

Sec. 3.4. Administrative officers--appointment, terms and remuneration.

(a) The City Manager and the City Attorney shall hold office by virtue of appointment by the Council, which body shall also set their salaries. They shall hold office at the pleasure of the Council; Provided, however, that the City Manager shall not be removed from office during a period of ninety (90) days following any regular city election, except by four-fifths (4/5) vote of the Council.

(b) All administrative officers of the city except the City Manager and City Attorney, shall be appointed or selected by and shall serve at the pleasure of the City Manager who shall set their salaries in accordance with budget appropriations.

State law reference(s)--Charter to provide for qualifications, duties and compensations of officers, M.S.A., § 5.2073(d).

Sec. 3.5. City employees.

All personnel employed by the city who are not elected officers or members of a board or commission created or authorized by this charter or declared to be administrative officers by or under authority of this chapter shall be deemed to be employees of the city.

Sec. 3.6. Eligibility for office in city.

No person shall be elected or appointed to any office who is in default to the city. No person shall be eligible for any elective office of the city, unless he shall be an elector in and a taxpayer to the city, and shall have been a resident of the city for at least one year immediately prior to the date of the primary election at which he seeks nomination as a candidate for office. Further, no person shall be eligible for election to the office of Councilman unless he shall be a resident of the ward from which he seeks to be elected.

(Amd. of 11-8-77)

State law reference(s)--Charter to provide for qualifications of officers, M.S.A., § 5.2073.

Sec. 3.7. Vacancies in offices.

A city office shall become vacant upon the happening of any of the following events before the expiration of the term of such office:

- (a) For any reason specified by state law as grounds for creating a vacancy;
- (b) If the officer of the city shall absent himself continuously from the city for more than sixty (60) days without permission of the Council, or, in any case, for more than ninety (90) days;
- (c) In the case of the members of the Council, where such officer shall cease to be a resident of the ward from which he was elected or shall miss four (4) consecutive regular meetings of the Council, or twenty-five (25) per cent of such meetings in any fiscal year of the city, unless such absences shall be excused by the Council and the reason therefor entered in the proceedings of the Council;
- (d) If the officer shall be convicted of any act constituting misconduct in office under the provisions of this charter.

Sec. 3.8. Resignations.

Resignations of elected officers and officers appointed by the Council shall be made in writing to the Council, be filed with the Clerk, and acted upon by the Council at its next regular meeting following receipt thereof by the Clerk. Resignation of officers appointed by the City Manager shall be made in writing to the City Manager, and shall be acted upon by him within two (2) weeks following receipt of such resignation by him.

Sec. 3.9. Filling vacancies.

If a vacancy occurs in the office of councilman leaving more than six (6) months of the unexpired term thereof, the Council shall, at its next regular meeting, order a special election in the ward affected to be held within sixty (60) days from such meeting for the purpose of filling said vacancy. At such election the names of all persons who possess the qualifications required of holders of the office of councilman, who have filed a nominating petition in accordance with the requirements of Section 10.9 of this Charter not later than 12:00 noon on the fourth Saturday before the date set for said election, shall be placed upon the ballot. The person receiving the greatest number of votes at such election shall be the councilman to fill the unexpired portion of the term in which the vacancy occurred effective at the next regular Council meeting. If the unexpired term of said vacated office is less than six (6) months, the Council

shall, within thirty (30) days, appoint a person who possesses the qualifications required of holders of the office of councilman.

If a vacancy occurs in any appointive office, other than that of City Manager, the proper appointing authority shall, within thirty (30) days thereafter, appoint a qualified person to fill such vacancy. (Amd. of 8-5-75)

Sec. 3.10. Term of office cannot be shortened or extended.

Except by procedures provided in this charter, the terms of the elected officials of the city and of officers of the city appointed for a definite term shall not be shortened. The term of any city officer may not be extended beyond the period for which he was elected or appointed except that after his term has expired, he shall continue to hold office until his successor is elected or appointed, and has qualified.

Sec. 3.11. Increase or decrease of compensation.

The Council shall not grant or authorize extra compensation to any city officer, elected or appointed, or to any employee, agent, or contractor, after the service has been rendered or the contract entered into: nor shall the salary of any city officer, elected or appointed, be increased or decreased after his election or appointment during any fixed term of office for which he was elected or appointed.

Sec. 3.12. Oath and bond of office.

Every officer, whether elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by Section 1 of Article XI of the Constitution of the State and shall file the same with the Clerk, together with any bond which may be required by this charter or by the Council. The oath and bond of the Clerk shall be filed with and kept by the Treasurer. In case of failure to comply with the provisions of this section within ten (10) days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

Sec. 3.13. Surety bonds.

Except as otherwise provided in this charter, the Council may require any officer or employee to give a bond, to be approved by the Council, conditioned upon the faithful and proper performance of the duties of his office or employment, in such sum as the Council shall determine. All such officers or employees receiving, disbursing, or responsible for the city funds shall be bonded. The resignation or removal of any bonded officer or employee shall not, nor shall the appointment of another to the office or employment, exonerate such officer or employee or his sureties from any liability incurred by him or them. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city, except as otherwise provided in this charter. No bond required by this section shall be renewed upon its expiration or in the event of the reappointment of any officer or employee to a position for which a bond is required, but a new bond shall be furnished. No bond, except that of the Municipal Judge, shall be issued for a term exceeding two (2) years.

Sec. 3.14. Delivery of office and effects by officer to his successor.

Whenever any officer or employee shall resign, or be removed from office, or the term for which any officer has been elected or appointed has expired, he shall, on demand, deliver to his successor in office or to his superior all the books, papers, moneys, and effects in his custody as such officer or employee, and which in any way appertain to his office or employment. Every person violating this provision shall be deemed guilty of a misdemeanor, and may be proceeded against in the same manner as public officers generally for the like offense under the general

laws of the state, now or hereafter in force and applicable thereto. Every officer and employee of the city shall be deemed an officer within the meaning and provisions of such general laws of the state for the purposes of this section.

Sec. 3.15. Pecuniary interests prohibited.

No officer of the city shall be benefited directly or indirectly by or receive any share or part of the profits of any contract, job, or service performed or to be performed for the city, but this prohibition shall not extend to any such contract, job, or service for the city's general interest which is made with or performed by any corporation, unless majority interest therein is owned or controlled by an officer or officers of the city or by any such officer or officers and persons immediately related to him or them by blood or marriage. No officer of the city shall stand as surety or give any bail or sign any bail or appearance bond required by this charter or the ordinances of the city, nor personally, or as an agent, provide any bond which is subject to approval by the Council. Any officer of the city who violates the provisions of this section shall be guilty of misconduct in office.

Sec. 3.16. Restrictions concerning other offices.

No city officer or employee shall hold or seek any partisan elective public office of the Federal or state governments or any political subdivision thereof, unless he resigns from his position with the city.

Editor's note--The city has advised that Public Act 169 of 1976, MCLA 15.401, et seq. has apparently nullified § 3.16.